

Federal Emergency Management Agency
Directives Management System



FEMA

Under Secretary's Policy

No.
1-04

Date
September 30, 2004

SUBJECT: Harassment and Retaliation

1. The Department of Homeland Security (DHS), Emergency Preparedness and Response Directorate, Federal Emergency Management Agency (FEMA), prohibits harassment, reprisal, and all other forms of discrimination in employment in accordance with Title VII of the Civil Rights Act of 1964, as amended; the Age Discrimination in Employment Act of 1967; the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; and, the Civil Rights Act of 1991.
2. This Under Secretary's Policy statement supersedes Director's Policy Statement No. 3-03, Harassment and Retaliation, September 2, 2003.
3. This policy applies to all FEMA employees, managers, supervisors, non-employees, and contractors, while engaging in business or visiting any FEMA facility/jurisdiction.
4. Harassment is any unwelcome verbal or physical conduct based on one of the Equal Employment Opportunity (EEO) protected bases (race, color, religion, sex, national origin, age (over 40), disability, and reprisal), that is so objectively offensive as to alter the conditions of one's employment where the conduct culminates in a tangible employment action or is sufficiently severe or pervasive so as to create a hostile work environment. In addition to the EEO protected bases listed, the bases of sexual orientation, parental status and genetic information will be eligible for counseling and investigation; however, they are not statutorily covered under Title VII EEO regulations. Any decisions rendered in conjunction with the additional bases will be made by the Department of Homeland Security, Office of Civil Rights and Civil Liberties. Examples of some forms of prohibited harassment include, but are not limited to:
 - a. Making inappropriate comments or remarks regarding an individual because of their religion or national origin (e.g. Arab/Islam/Hijab).
 - b. Continually scrutinizing, criticizing, or requiring tasks of an individual because of a protected basis while not treating a similarly situated employee in the same manner.
 - c. Making derogatory or intimidating references to an individual's mental or physical impairment.
 - d. Using racially derogatory words, phrases, or epithets or making gestures or demonstrations using pictures or drawings that would offend a particular racial or ethnic group.

Distribution: J(AllPersHqFld), and <http://cio.fema.net/rm/dm/current.html>

5. FEMA subscribes to and implements to the fullest, the requirements of: Title VII of the Civil Rights Act of 1964, as amended; the Age Discrimination in Employment Act of 1967; the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; and the Civil Rights Act of 1991.
6. Public Law 107-174, Notification and Federal Employee Anti-Discrimination and Retaliation (NO FEAR) Act of 2002, also prohibits retaliation in discrimination and requires agencies to be accountable for anti-discrimination and whistleblower laws, while ensuring adequate posting regarding rights and responsibilities.
7. It is unlawful to retaliate in any way against individuals who have articulated concerns regarding unlawful harassment. Such prohibited conduct exposes not only FEMA, but individuals involved in retaliatory conduct to significant liability under the laws.
8. Managers and supervisors are responsible for exercising reasonable care to prevent and promptly correct any harassment. Failure to do so may increase liability for responsible officials and the Directorate.
9. To seek redress, employees who believe they have been subjected to harassment or retaliation regarding any prohibited basis may report their allegation(s) directly to the FEMA Office of Equal Rights, Employee and Labor Relations staff within the Human Resources Division, or any Management Official. Management Officials that are notified regarding alleged harassment are obligated to notify the FEMA Office of Equal Rights.
10. Employees who wish to pursue the EEO process are entitled to seek EEO counseling and should contact the FEMA Office of Equal Rights at (202) 646-3535, within 45 days from the time they knew or became aware of such discrimination.
11. Managers and employees will be expected to work together to ensure that harassment and retaliation have no place within FEMA. I am committed to the prevention of harassment and retaliation within the Directorate and will pursue this policy vigorously.



Michael D. Brown
Under Secretary
Emergency Preparedness and Response